

FARRAUTO & BERMAN

ATTORNEYS AT LAW

CENTRAL PARK PROFESSIONAL BLDG.

1250 CENTRAL PARK AVENUE

YONKERS, NEW YORK 10704

(914) 423-8880

FAX (914) 423-8964

JOHN P. FARRAUTO
HOWARD E. BERMAN*

CHERYL SLATER**

*ALSO MEMBER FLORIDA BAR
**ALSO MEMBER CONNECTICUT BAR

OF COUNSEL:
HON. JOSEPH F. NOCCA
(JUDGE OF THE CITY COURT
OF YONKERS, RET.)

FRANK P. COCOZZA

WEISS & WEISS
ERIC WEISS
CAROLYN L. WEISS

April 15, 2008

MEMO ENDORSEMENT

Hon. Kenneth M. Karas
United States District Court
Southern District of New York
United States Courthouse
300 Quarropas Street, Room 533
White Plains, NY 10601

Re: Steven DiPaolo v. Showtime/Pro-Formance
07 Civ. 11289
Our File No. 1000

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC # _____ DATE FILED: _____

Dear Judge Karas:

The undersigned represents the plaintiff in the above-referenced matter. The Complaint was filed with the Clerk on December 17, 2008.

This action is a case brought under the Carmack Amendment, involving the interstate shipment of goods to the plaintiff by the defendant, a licensed interstate carrier, which goods were damaged in transit. To date, despite many attempts, our process servers have been unable to personally serve the defendants at either their place of business or at the residence of the corporate principals in Alabama. Our process servers report that the principals of the defendant refuse to answer the door of their residence, even though their neighbors have confirmed that they reside at the address in question. In addition, no one is present at the business address of the defendant, as it is simply an unoccupied storage area for goods to be transported.

We have enclosed copies of affidavits of two separate process servers, showing attempts to serve the defendants at both a business and residence address. Please note that, unlike New York, Alabama does not permit corporate service of process through the Secretary of State.

We would therefore request the Court's permission to serve the defendants through an overnight delivery service, such as Federal Express, at both the business address and the residence address of the company's principals. In the alternative, we would request an extension of the deadline of service for an additional sixty (60) days to continue our attempts to effectuate personal service upon the corporation.

Please let us know if the Court requires any additional information. I can be reached at 914-423-8880. Thank you.

Hon. Kenneth M. Karas
April 15, 2008
Page 2

Sincerely yours,



Eric Weiss

enclosures

Plaintiff is to serve the
defendants consistent with applicable law.
The Court will not pre-approve any suggested
methods.

SO ORDERED.



KENNETH M. KARAS U.S.D.J.

4/16/08